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UNCLAS UNVIE VIENNA 000225

SIPDIS

E.O. 12958: N/A
TAGS: [TSPA](#) [TSPL](#) [UNGA](#) [UNPUOS](#)

SUBJECT: CORRECTED COPY OF UNVIE VIENNA 206: COPOUS: WRAP-UP OF THE
48TH SESSION OF THE LEGAL SUBCOMMITTEE (LSC), MARCH 23-APRIL 3,
2009

REF: A. STATE 28279

CORRECTED FOR SUBJECT LINE INFORMATION

SUMMARY

[¶1.](#) (U) The 48th session of the Legal Subcommittee (LSC) of the UN Committee on the Peaceful Uses of Outer Space (COPUOS) yielded positive results for the United States and set the stage for the further advancement of USG interests in the LSC next year. The second year consideration of national legislation relevant to the exploration and use of outer space and capacity building in space law generated considerable discussion. The subcommittee considered for the first time national implementation of space debris mitigation measures. The working group on the status of the five UN Outer Space Treaties examined the low rate of participation in the Moon Agreement and agreed that it would continue its discussions in [¶2010](#). Austria also announced its intention to convene a multidisciplinary seminar on issues related to the Moon Treaty before the next session of the Subcommittee. End summary.

Weapons in Space

[¶2.](#) (U) The 2009 session of the LSC was devoid of any serious effort to inject space arms control (or other contentious political issues) into the work of the Subcommittee, with only China, Cuba, and Russia raising this topic. All three suggested that new international legal instruments were needed to prevent the weaponization of space and use of force. Remarks referring to an "arms race" in space were not supported by other countries and were not followed up on during the rest of the session.

Iridium-Cosmos Collision

[¶3.](#) (U) Per reftel, USDEL updated the subcommittee on the collision

of Iridium 33 and COSMOS 2251. Several delegations made direct or indirect reference to the collision in the course of calling for greater adherence to debris mitigation guidelines and the need for international standards for safe space operations. Russia did not mention the collision.

Outer Space Treaties

¶4. (U) The working group under Agenda Item 4 - Status and Application of the Five International Legal Instruments Governing Outer Space was reconvened and chaired again by Vassilios Cassapoglou of Greece. The working group spent much of its time discussing the Moon Agreement and the reasons for the low participation of states. The secretariat prepared a background paper on activities being carried out on the Moon, international and national rules governing those activities and information from States Parties to the Moon Agreement about the benefits of adherence to that Agreement. As agreed at the last session of the LSC, this report was based primarily on information provided by member states. In addition, the working group had before it a joint statement that had been presented last year by Austria, Belgium, Chile, Mexico, the Netherlands, Pakistan, and the Philippines (all states parties to the Agreement) on the benefits of adherence to the Agreement. A number of delegations, notably Russia, China, and Japan, gave detailed interventions on specific provisions of the Agreement that they believe are in conflict with or are inconsistent with provisions of the other four outer space treaties. They also expressed concerns that the interaction between the concepts of province of mankind found in the Outer Space Treaty and the common

heritage of mankind contained in the Moon Agreement raised potential inconsistencies that would need to be addressed. The working group agreed to continue considering the Moon Agreement at its next session. (Comment: The interventions by China, Japan and Russia underscored the fact that there is no consensus in COPUOS for reforming the Moon Treaty. Indeed, the more the agreement is analyzed and discussed, the less willing non-states parties seem to fix it. End comment.)

Delimitation of Outer Space/Use
of Geostationary Orbit (GSO)

¶5. (U) Discussion of Agenda Item 6, Delimitation of Outer Space/Use of Geostationary Orbit (GSO), largely repeated comments made in previous years. The working group under this agenda item was reconstituted under the chairmanship of Jose Monserrat Filho (Brazil). In the plenary and working group, numerous states explained their views on not only whether a definition of outer space is desirable, but also regarding the use of geostationary orbits. Russia and Ukraine spoke strongly in favor of a definition/delimitation, arguing that as different legal regimes apply to airspace and outer space, one needs to know the boundary between them. In the working group and in the plenary the US and other Western Group delegations expressed the view that a definition/delimitation of outer space was unnecessary. Both the Group of Latin American and Caribbean States (GRULAC) (as a whole) and Indonesia emphasized the need for equitable access to the GSO, a limited natural resource. The GRULAC in particular referenced the relevant International Telecommunications Union (ITU) processes.

¶6. (U) The Committee agreed to invite member states to submit information on national legislation or practices that relate to the definition and/or delimitation of outer space, and to request the secretariat to continue to address to member states the following questions:

* Does your government consider it necessary to define outer space and/or to delimit air space and outer space, given the current level of space and aviation activities and technological development in space and aviation technologies?;

* Does your Government favor another approach to solving this issue?

(Comment: There was no serious effort to invigorate this working group because it is clear that the diametrically opposed views will not be reconciled any time soon. End comment)

Nuclear Power Sources in Space

17. (U) All delegations intervening on Agenda Item 7, Nuclear Power Sources in Space, welcomed the adoption at the last session of the STSC of the Safety Framework for Nuclear Power Source Applications in Outer Space. The GRULAC delegations called for binding norms for the use of NPS and Venezuela reiterated the reservations they had expressed at the time the framework was adopted at the STSC. Russia delivered a lengthy statement asserting that the framework is non-binding and is not an interpretation or replacement of other instruments dealing with NPS. Further, the guidelines are designed to promote the safe use of NPS and should serve as a guide for national NPS activities. The known uses of NPS remain the same as when the 1992 NPS principles were adopted, therefore, no changes to the principles are necessary. Finally, Russia suggested that we

need an in-depth analysis of the national implementation of the principles and the STSC framework and with that experience there could be the possibility of developing an international high-level instrument.

Space Assets Protocol

18. (U) Member states reiterated their support for the space assets protocol and noted that there did not appear to be any legal conflicts between the protocol and the space treaties. UNIDROIT reported that a steering committee had been established and met on May 7-9, 2008. In addition, two subcommittees were established on default remedies in respect of components and public services, respectively. The results of the subcommittees' work will be considered by the steering committee when it meets May 14-15, 2009. At that time, the steering committee will also assess the possibility of convening the committee of governmental experts November 30-December 4, 2009, and adopting the draft space assets protocol at a diplomatic conference in the third quarter of 2010.

Capacity-building in Space Law

19. (U) There was a high level of participation in Agenda Item 10, Capacity-building in space law. Member states and observers reported on efforts to promote capacity building, training and education in space law. The exchange of information reinforced the need for states to develop a cadre of government and non-government experts with the knowledge of the legal framework at the national and international levels within which space activities are carried out. The Subcommittee identified a number of actions that could be undertaken to strengthen capacity in space law, particularly in developing countries. The Subcommittee agreed to consider the item again next year. It also recommended that member states, observers and OOSA consider the means of implementing the above identified actions and to inform the Subcommittee on any steps taken or planned on a national, regional, or international level. Based on a recommendation from the previous session of the subcommittee, OOSA worked with space law educators and representatives of the regional centers for space science and technology education, affiliated with the UN, to develop a draft curriculum on space law. The draft was well received by delegations, and OOSA will work to finalize the draft for the next session.

National Mechanisms Relating to Space
Debris Mitigation Measures

¶10. (U) This was the first year that Agenda Item 10, National Mechanisms relating to Space Debris Mitigation Measures, was considered. The topic was added to the agenda based on a U.S. proposal presented last year. Statements were made by Canada, China, France, India, Italy, Russia, and the U.S. Special presentations were also made by Japan, Russia, and the European Space Agency (ESA). The subcommittee recommended that states continue to implement space debris mitigation measures and to study the experience of states that had already established national mechanisms governing mitigation measures, and further agreed that the item should be retained on the agenda.

National Legislation Relevant to

the Peaceful Exploration and
Use of Outer Space

¶11. (U) This was the second year of a 4-year work plan on general exchange of information on national legislation relevant to the peaceful exploration and use of outer space, with the aim of providing a broader picture of how states regulate their national space activities. A working group, chaired by Irmgard Marboe (Austria), was convened for the first time. The working group had before it the presentations and conference room papers presented last year and submissions from France, Belgium, Japan, and EUTELSAT IGO. In addition, statements were made in the plenary by Italy, Poland, and South Africa. The working group, taking into account the reports and national submissions before it, conducted a review of the following issues: 1) Reasons for States to enact space legislation; 2) Scope of space activities targeted by national regulatory frameworks; 3) Scope of national jurisdiction over space activities; 4) Competence of national authorities in the authorization, registration and supervision of space activities; 5) Conditions to be fulfilled for registration and authorization; 6) Regulations concerning liability; and 7) Compliance and monitoring. There was extensive and substantive participation by delegates that resulted in a solid report.

¶12. (U) The working group agreed that a number of issues need further consideration, such as the regulation by states of transfers of ownership of space objects and transfer of authorized space activities to third parties, the participation of private nationals in space flights and the treatment in service provider contracts of issues of liability and responsibility for collisions of satellites in outer space. It was also recommended that member states be invited to respond to the seven issues above and that member states that have not yet enacted national legislation should be invited to submit information on the reasons for the absence of such legislation. In addition, the secretariat will prepare, in consultation with the chair, a paper providing a schematic overview of existing national regulatory frameworks based on the information provided to the working group. (Comment: The working group got off to a great start due to the superb leadership provided by Prof. Marboe and the substantive submissions and presentations made by member states. We anticipate that this high quality of work will be sustained over the life of the agenda item and will result in an extremely useful product. End comment)

Proposals for New Items

¶13. (U) Items on the UNIDROIT space protocol, capacity building in space law, debris mitigation, and NPS were retained along with the standing items. Consensus could not be reached on the proposals that were suggested at the last session. Additionally, Saudi Arabia proposed an item on regulation of the dissemination of earth observation satellite images through the World Wide Web, however, there was no consensus.

¶14. (U) The U.S. Delegation has cleared this cable.

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